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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,233

03/17/2004

Nicole M. Beaulieu

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7590

10/01/2009

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EXAMINER

SHAH, MILAP

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

10/01/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

Office Action Summary	Application No. 10/803,233	Applicant(s) BEAULIEU ET AL.	
	Examiner MILAP SHAH	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/26/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-60 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,887,157. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least the invention of claim 1 of the instant invention and claim 1 of U.S. Patent No. 6,887,157 are substantially equivalent. Both claims describe an invention including a gaming machine in which a 3-dimensional gaming arrangement is disclosed, including positioning a three-dimensional object such that the three-dimensional object includes a plurality of vertices defining surfaces of the object, such that based on the position of a virtual camera, a determination is made as to which surfaces of the object are to be viewed, where the surfaces include one or more two-dimensional images of games being played. While the claimed limitations are not identical, numerous limitations are substantially equivalent in at least claims 1, 20, 32, and 51 of the instant application with at least claim 1 of U.S. Patent No. 6,887,157. For at least these reasons, claims 1-60 are rejected on the grounds of nonstatutory obviousness-type double patenting.

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Claims 1-60 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of U.S. Patent No. 7,465,230. Although the conflicting claims are not identical, they are not patentably distinct from each other because similarly to U.S. Patent No. 6,887,175 discussed above, instant claims 1, 20, 32, and 51 disclose substantially the same invention as at least claim 1 of U.S. Patent No. 7,456,230. Both inventions are directed to positioning a virtual camera toward a three-dimensional object having a plurality of vertices, where based on the positioning of the virtual camera, the game machine renders the surfaces to include a plurality of two-dimensional images of various games being played. Both inventions are directed to the three-dimensional object having a plurality of vertices, surfaces, and rendering of the two-dimensional images thereon. While the instant invention includes determination of outcomes for games, there games are merely the two-dimensional images discussed in the patent, such that these games are rendered to the surface of the three-dimensional object, at least based on a view of the virtual camera such that a portion of some surfaces may be in or out of view. For at least these reasons, claims 1-60 are rejected on the grounds of nonstatutory obviousness-type double patenting.

Claims 1-60 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 7,572,186. Although the conflicting claims are not identical, they are not patentably distinct from each other because of substantially the same reasons as U.S. Patent No. 7,465,230. The invention of U.S. Patent No. 7,572,186 in at least claim 1, similarly includes a plurality of limitations substantially similar to the above patents and instant claims 1, 20, 32, and 51, such as determining game outcomes, specifying surfaces of a three-dimensional object, positioning a virtual camera, determining which portions of the surfaces are to be viewed based on the position of the virtual camera, rendering two-dimensional game images to be mapped or placed onto the surfaces of the three-dimensional object, and displaying the portion viewable based on the position of the virtual camera. Such

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limitations produce an obvious variant of the invention of instant claims 1, 20, 32, and 51. For at least these reasons, claims 1-60 are rejected on the grounds of nonstatutory obviousness-type double patenting.

Response to Arguments

Applicant's arguments, see remarks, filed May 26, 2009, with respect to the 35 U.S.C. 103 rejection of claims 1-60 over the combination of Itkis and Nakano, have been fully considered and are persuasive. The rejection of claims 1-60 over this combination has been withdrawn.

Nonetheless, Applicant's amendments appear to add limitations that necessitated the double patenting rejections as set forth above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MILAP SHAH whose telephone number is (571)272-1723. The examiner can normally be reached on M-F: 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MBS/

/Peter D. Vo/

Supervisory Patent Examiner, Art Unit 3714